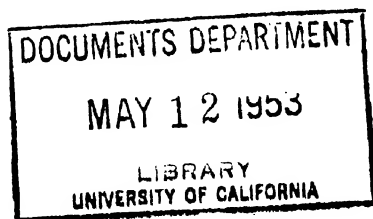


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LECTURES ON THE GENEVA CONVENTIONS OF 12 AUGUST 1949



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LECTURES ON THE GENEVA CONVENTIONS OF 1949

Section I. GENERAL

1. A conference was convened in Geneva in 1949 for the purpose of revising the Geneva Conventions of 1929 and the Hague Convention of 1907 relating to the protection of war victims. The conference established the texts of four Conventions which are now undergoing the process of ratification by the countries involved. The United States will not become legally bound by the Conventions until ratification by the Senate of the United States in the manner prescribed by the Constitution.

2. The four Conventions are reproduced in Department of the Army Pamphlet 20-150, Geneva Conventions of 12 August 1949 for the Protection of War Victims, 11 October 1950.

3. The following three lectures are designed to acquaint you with the principal provisions of the four Geneva Conventions of 1949.

Section II. LECTURE NO. 1

THE GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR

Introduction

Most of you have read or heard of the captured soldiers who, with their hands tied behind their backs and without means of defense, were ruthlessly put to death by their captors.

It was for the purpose of eliminating such cruel and inhuman treatment of victims of warfare that agreements, conventions, and treaties among civilized nations of the world have been proposed and ratified.

The most recent convention for the consideration of such matters was that convened by the Swiss Federal Council for the purpose of revising the Geneva Conventions of 1929 and the Xth Hague Convention and to establish a convention for the protection of civilian persons in time of war. Deliberation and discussion were carried on for 4 months by representatives of the major powers of the world. This conference established the texts of the following conventions:

I. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

- II. Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.
- III. Geneva Convention Relative to the Treatment of Prisoners of War.
- IV. Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

These Conventions, known as the Geneva Conventions of 1949 for the protection of war victims, were signed by our representatives together with sixty other powers, known as the High Contracting Parties, and are now in process of ratification by the signatory nations.

Because of its primary importance to the armed forces, today's discussion, the first, will cover the Convention Relative to the Treatment of Prisoners of War. It will review the general provisions of the Convention and give you the basic information necessary to know the rights and privileges which the member nations are bound to observe in their treatment of prisoners of war.

General Provisions

We, the members of the Armed Forces, must understand these Conventions for two main reasons; first, through the misfortune of war, some of us may become prisoners of war and would need to know our rights; second, we may capture prisoners of war and we must know how to treat these prisoners in order to uphold the dignity and honor of our Republic, for Article 1 of all the Conventions states that all signers will respect this agreement in all circumstances; as captors, we become direct agents of our Nation.

This agreement covers all armed conflict between Contracting Parties and all cases of partial or total occupation of the territory of a Party to the Convention. When one Party to a conflict is not a member, we still observe the Convention if the nonmember accepts and applies the provisions of the Convention. Under all circumstances, our Nation agrees to treat prisoners of war humanely without distinction founded on race, color, belief, creed, or other cause. We further agree that we will not murder, mutilate, torture, or degrade prisoners of war nor will we pass sentence and carry out executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

Article 4 of this Convention defines prisoners of war as persons belonging to one of the following categories who have fallen into the power of the enemy:

- (1) All members of the armed forces of a party to the conflict as well as members of militias or volunteer corps, forming a part of such forces.
- (2) Members of other militias and members of other volunteer corps, including organized resistance movements belonging to a party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such groups or organized resistance movements are—
 - (a) Commanded by a person responsible for his subordinates.
 - (b) That of having a fixed distinctive sign recognizable at a distance.
 - (c) That of carrying arms openly.
 - (d) That of conducting their operations in accordance with the laws and customs of war.
- (3) Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power. (Example—North Korean PW's)
- (4) Persons who accompany the armed forces without being members thereof, such as civilian members of aircraft crews, war correspondents, supply contractors and members of labor service units provided they are authorized by the army which they accompany and have proper identification.
- (5) Members of the Merchant Marine and crews of civil aircraft belonging to the conflicting parties when not entitled to more favorable treatment under International Law.
- (6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

Persons belonging, or having belonged, to the armed forces of the occupied country who may be classed as security risks may be interned and should be treated as prisoners of war. These classifications do not affect the status of medical personnel, chaplains, and others classed as protected personnel.

No special agreement shall adversely affect the situation of prisoners of war, as defined by the present Convention. Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to, if such there be.

A Protecting Power is a designated neutral country which acts as a go-between for settling complaints and grievances between you and the enemy. The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartial-

ity and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention. There will always be a Protecting Power or organization to inspect and report on the observance of the rules of these Conventions among the High Contracting Parties.

General Protection of Prisoners of War

Prisoners of war are in the hands of the enemy power but not of the individuals or military units who have captured them. We are obligated to observe all the rules of the Convention even in the heat of battle should we capture or have an enemy surrender to us or to our unit.

Prisoners of war must at all times be humanely treated. In particular no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments, which are not justified by the medical, dental, or hospital treatment of the prisoner concerned and conducted in his interest.

Prisoners of war must, at all times, be protected against acts of violence, insult, and public curiosity; reprisals of any kind against prisoners of war are prohibited. Prisoners of war are entitled in all circumstances to respect for their persons and their honor.

Women prisoners of war will be treated with all regard due to their sex and shall have the benefit of treatment as favorable as that granted to men.

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

Taking into consideration the provisions of rank and sex, and privileges accorded due to health, age, and profession, all prisoners of war will be treated alike by a Detaining Power without distinction based on race, nationality, color, creed, or any other cause.

Beginning of Captivity

Upon capture every prisoner of war when questioned on the subject, must give only his full name, rank, date of birth, and serial number or equivalent information; failure to comply may render him liable to a restriction of privileges due his rank or status.

Each person will be given an identity card by the Power that he serves to be used for identification and information on his status when taken prisoner by the enemy. When being interrogated, no prisoner of war will be coerced, abused, threatened, or exposed to unpleasant treatment of any kind. Prisoners of war who, due to physical or mental condition, are unable to be questioned will be turned over to

the medical service. All questioning of prisoners of war must be conducted in a language which they understand.

All prisoners of war when being searched shall keep in their possession all effects and articles of personal use, except arms, horses, military equipment, and military documents. Articles of issue such as gas masks, metal helmets, and like articles issued for personal protection will be retained by the prisoner. Clothing and mess gear will not be removed nor will the prisoner's identity document be removed.

Badges of rank and nationality, decorations, and articles of personal or sentimental value will not be taken.

When money is found on a prisoner, it will be removed only after being so ordered by an officer who will issue a proper receipt for said money. Such money, unless it be at the request of the prisoner, converted to funds of the Detaining Power and credited to his account, will be kept and returned to the prisoner at the end of his captivity. Any other articles withdrawn for security reasons will likewise be receipted, recorded, and restored to the prisoner at the end of his captivity.

Prisoners of war shall be moved out of the danger zone as soon as possible after their capture to camps not in danger or combat areas. No prisoner of war will be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

We must maintain similar conditions, in transporting prisoners of war, to the movements of troops of our own Army.

Location of Internment Camps

Prisoners of war are subject to internment and may not go beyond certain specified limits or outside of a perimeter fence. Unless a prisoner is undergoing penal or disciplinary punishment, he will not be placed in close confinement except where necessary to safeguard health. All prisoner of war camps must be located on land in localities affording every condition of hygiene and healthfulness and prisoners of war will be assembled in camps or camp compounds according to nationality, language, and customs. No camp will be located in areas exposed to the fire of the combat zone nor will prisoners of war be sent into such areas or used as a screen for combat action. Transit or screening camps will be of similar nature to permanent camps and all prisoners therein shall have the same treatment as in other camps.

Quarters, Food, and Clothing

Prisoners of war must be quartered under conditions as favorable as those afforded forces of the Detaining Power billeted in the same area. All quarters shall be clean, adequate in space, free from damp-

ness, and be furnished with heat and light with adequate bedding and blankets. Sanitary facilities such as showers and latrines must be adequate. Men and women prisoners will be housed in separate dormitories (Art. 25.)

The basic food rations shall consider the habits and customs of the prisoners and will be sufficient to keep the prisoners in good health and to prevent the loss of weight or nutritional deficiencies. Sufficient drinking water will be provided and the use of tobacco will be permitted.

Adequate premises for cooking and eating of food will be provided; the prisoners will be permitted to work in the kitchens in preparing their own food. No collective disciplinary action will be administered regarding food.

Necessary clothing, underwear, and foot wear suitable for the climate in which interned must be provided for all prisoners of war with repair and replacement when needed.

Every prisoner of war camp must have an infirmary where prisoners of war may receive adequate medical care. Medical personnel from their own army when available will minister to their needs. No prisoner of war will be denied the right to go on sick call. All costs for treatment and for aids such as dentures and glasses will be borne by the Detaining Power. Medical inspection will be held at least once a month.

Members of medical personnel and chaplains when retained by the Detaining Power are not classed as prisoners of war, but will receive all the benefits of PW's. They are protected personnel and will not be prohibited from visiting prisoners in camps and hospitals, nor will they be required to do work other than religious or medical for the benefit of the prisoners. Such personnel are subject to the internal discipline of the camps.

Prisoners of war enjoy freedom in the exercise of their religious duties, including attendance at the service of their faith on condition that they comply with the disciplinary routine prescribed by the military authorities. They will be encouraged to engage in educational, intellectual, and athletic pursuits; the equipment and suitable areas for such activities will be provided by the Detaining Power.

Discipline

Every prisoner of war camp will be commanded by a responsible commissioned officer of the regular armed forces of the Detaining Power, who will see that all operating personnel understand the provisions of the Convention and observe its provisions. All prisoners, except officers, must salute and show all officers of the Detaining Power

the same respect as provided by regulations of their own army. Officer prisoners must salute all officers of higher rank and the Camp Commander regardless of his rank.

Prisoners of war may wear badges of rank and nationality as well as decorations.

All camps will have a copy of the Convention posted in the prisoners' own language in places where all may read. All notices, regulations, and orders for prisoners must be in a language which they understand. Every order given to an individual prisoner must also be in a language which he understands.

The use of weapons against prisoners escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

Officers and prisoners of equivalent status shall be treated with regard due to rank and age. Orderlies of other ranks of the same armed forces will be assigned to officer camps and will not be required to perform any other work than that of orderlies.

When prisoners of war are transferred from one camp to another, they must be advised of their departure and of their new postal address. They shall have time to pack their luggage and be allowed to take their personal effects and parcels. No prisoner will be required to carry more than 25 kilograms in weight (approximately 55 lbs.) Community property and mail and parcels will be forwarded at no expense to the prisoners without delay.

When moving prisoners because of the combat zone drawing close to a camp, safety of the prisoners will be considered, and they will not be moved unless in greater danger by remaining in the camp.

Labor

Prisoners of war may be required to perform labor which is not humiliating, dangerous, or unhealthy provided such labor generally is not military in character or purpose. Work in agriculture; manufacturing and processing of raw materials, except in metallurgy, machinery, or chemicals; transport and handling of stores not military in character or purpose; arts and crafts; public utility services, if such services have no military character or purpose; and domestic service is permitted and prisoners may be compelled to do such work along with camp administration, installation, and maintenance. When prisoners feel that required work is contrary to the provisions of the Convention, they may complain to the Protecting Powers.

Noncommissioned officers may request work, but in no case may be compelled to do more than supervisory work.

Officer prisoners may request work, but under no circumstance may be compelled to work.

When prisoners of war are worked in labor detachments and for private contractors, the base camp commander must keep records subject to inspection of the Protecting Powers and the International Red Cross and insure that the conditions of labor are in compliance with the Convention.

All prisoners of war will receive pay and each will have an account or record of receipts and expenditures maintained by the Detaining Power. Prisoners may not be required to perform slave labor.

Relations With the Exterior

Immediately upon capture or not more than one week after arrival at a camp or upon transfer, each prisoner of war will be permitted to write a card to his family and to the Central Prisoner of War Agency informing them of his location, state of health, and other permitted matters.

Prisoners of war will be allowed to receive by post or other means parcels and packages containing food, clothing, medical supplies, and religious, recreational and educational articles such as books, examination papers, musical instruments, and sports equipment. All such communications and parcels are subject to censorship for security reasons, but will in no manner be delayed or limited other than by the Protecting Power or the International Red Cross or other similar agencies in the interest of the prisoners themselves.

Prisoners' Relations With Authorities

(Art. 78).

Prisoners of war may register complaints with the authorities regarding their captivity and may further complain to the Protecting Power of such conditions; even though the complaints are unfounded, they must be forwarded without delay and for such unfounded complaints, there may be no punishment administered.

Prisoners of war are subject to the laws, regulations, and orders in force in the armed forces of the Detaining Power. They may be tried for violations of those laws, provided the punishment decreed is not greater than that allowed for members of the armed forces of the Detaining Power and that the trial be held in the same type court as would be required for members of the Detaining Power's Armed Forces with all the safeguards of the Convention, such as right of counsel, a competent interpreter, Protecting Power's advance knowledge, ample time for defense, and full knowledge of the charges with the right of appeal. No prisoner may be punished more than once for the same act

and on the same charge. Officers, noncommissioned officers, and men shall in no case receive more severe treatment when undergoing punishment than would be received by members of the equivalent rank in the armed forces of the Detaining Power.

Women prisoners of war will in no case receive a punishment more severe than that given to women of the armed forces of the Detaining Power nor will their punishment be more severe than that given to male members of the armed forces of the Detaining Power for the same offense.

Disciplinary Punishment

The maximum disciplinary punishments allowed to be administered by the camp commander or by some competent officer who has had such authority delegated to him by the camp commander cannot exceed a period of more than 30 days and may be one of a fine of not more than 50 percent of pay; discontinuance of privileges granted above the treatment provided in the Convention; extra fatigue of not more than 2 hours daily; or confinement. Extra fatigue may not be given officers. In no case shall disciplinary punishments be inhuman, brutal, or dangerous to the health of prisoners of war.

Any period spent by a prisoner of war in confinement awaiting the disposal of an offense against discipline shall be reduced to an absolute minimum and shall not exceed 14 days and will be deducted from the final punishment. When a prisoner of war is awarded a further disciplinary punishment, a period of at least 3 days shall elapse between the execution of any two of the punishments, if the duration of one is 10 days or more.

The escape of a prisoner of war shall be deemed to have succeeded when—he has joined the armed forces of the Power on which he depends, or those of an allied Power; he has left the territory under the control of the Detaining Power, or of an ally of the said Power; he has joined a ship flying the flag of the Power on which he depends, or of an allied Power, in the territorial waters of the Detaining Power, the said ship not being under the control of the last named Power.

Prisoners of war who have made good their escape in the sense of this Article and who are recaptured shall not be liable to any punishment in respect of their previous escape.

An offense committed during an escape or attempted escape that does not endanger life or limb is subject to disciplinary punishment only. It follows, under the same conditions, a prisoner of war, who aids or abets an escape, is subject to disciplinary punishment only (Art. 93).

No prisoner of war may be confined while awaiting disciplinary hearing for a period in excess of 14 days; furthermore, he will not be

so confined unless a soldier of the Detaining Power would be so confined. All hearings will be investigated immediately and when held will be before the camp commander or the officer who has had such disciplinary powers delegated to him. The prisoner will be informed of his offense and be given an opportunity to defend himself. In no case may a prisoner of war have disciplinary power over other prisoners of war. The Protecting Power may be appealed to and in all cases records will be kept for the Protecting Power to inspect.

A prisoner while undergoing confinement shall not suffer the loss of any rights secured to him by the Convention other than those rendered inapplicable by such confinement. Officers, men and women, will be confined in separate quarters and shall have the right to write and receive letters; parcels and money may be denied them until confinement is completed. Two hours in the open for exercise and fresh air will be allowed daily. Daily sick call and medical attention must be provided; hospitalization when needed will not be denied (Arts. 95-98).

Death

Every death or serious injury to a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person; or any death the cause of which is unknown will be followed by an official investigation by the Detaining Power. The Protecting Power will be given all information and if the findings indicate the guilt of one or more persons, the Detaining Power must take all measures for their prosecution (Art. 121).

In order to properly carry out the provisions of the Convention, a prisoner of war information bureau is established in each member country. This bureau is in the office of the Provost Marshal General for our Nation. All matters pertaining to prisoners of war are handled through this agency to the Protecting Powers, the International Red Cross, and to and from the Central Prisoner of War Information Agency; an agency created in some neutral country to handle all prisoner of war information between the High Contracting Parties (Art. 122).

The Protecting Power, that neutral government which looks after the interests of a belligerent in the enemy country, and the representatives of the International Red Cross have the authority to visit any and all prisoner of war camps for inspections and to interrogate prisoners of war, in private, regarding the conditions of their confinement and other matters for the prisoners' welfare and rights (Arts. 126-127).

We must remember that our Nation keeps its treaties and agreements; as members of the armed forces and representatives of our Republic, we need to know the rights and privileges that we must give to prisoners of war under the Geneva Convention. We should further know that as in a football game we have umpires and referees to enforce the rules of fair play, so in the enforcement of the provisions of the Geneva Convention, we have the Protecting Powers and the International Red Cross or other similar agencies to check on and observe the treatment afforded prisoners of war. Wilful violations of this Convention upon the part of individuals or nations will reflect upon the nation's honor and in certain conditions will require the trial and punishment of violators.

Section III. LECTURE NO. 2

THE GENEVA CONVENTIONS RELATIVE TO THE AMELIORATION OF THE CONDITION OF THE WOUNDED, SICK, AND SHIPWRECKED

Introduction

The first Geneva Convention was an international agreement enacted for the purpose of improving the condition of sick and wounded soldiers in the field. The 1949 Conventions includes shipwrecked members at sea. The First Convention was originally adopted at Geneva in 1864, replaced in 1906, 1929, and again in 1949. The Convention of 1906 did not supersede that of 1864 with respect to nations who approved the latter but not the former. The Convention of 1929 replaced that of 1906 only as between parties who approved the former, and likewise the Convention of 1949 replaced that of 1929 only as to countries approving the former. General MacArthur publicly stated that he would abide by the humanitarian principles as set forth in the Conventions of 1949, although not as yet ratified by the Senate of the United States. The International Congress of 1864 which established the Convention of 1864, was the result of a movement which sprang from the publication in 1862 of a book entitled *Un Souvenir De Solferino*, by Henri Dunant, a Genevese Philanthropist, in which he described the battle of Solferino in which 39,000 troops were slain. His description of the suffering was so vivid that the subject became forthwith one of public interest. Dunant's works were energetically taken up by M. Gustave Moynier, a Swiss, whose agitation led to an International Congress being held at Geneva in 1863. The Convention afterwards received the adherence of every civilized power.

Wounded, Sick, and Shipwrecked

The following six distinct categories of personnel who are at sea and who are wounded, sick, or shipwrecked shall be respected and protected in all circumstances, it being understood that the term "shipwreck" means shipwreck from any cause and includes forced landings at sea by or from aircraft.

- (1) Members of the armed forces of a party to the conflict as well as members of volunteer corps or militias forming part of that force.
- (2) Members of other volunteer corps such as organized resistance movements who operate inside or outside their own territory provided they fill the following four conditions:
 - (a) Commanded by a person responsible for his subordinates' actions and conduct.
 - (b) Carry arms openly.
 - (c) Wear a fixed distinctive insignia recognizable at a distance.
 - (d) Conduct their operations in accordance with the rules and customs of war.
- (3) Members of regular armed forces who profess allegiance to a Government not recognized by the Detaining Power.
- (4) Persons not belonging to but accompanying the armed forces such as reporters, photographers, and technicians, provided they have proper authorization from the armed forces they accompany.
- (5) Members of crews of the merchant marine and the crews of civil aircraft of the Parties to the conflict.
- (6) Inhabitants of non-occupied territory, who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

Subject to the provisions outlined in the following paragraph, the wounded, sick, and shipwrecked of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them.

Treatment

They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives or violence to their persons shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological

experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created. The commission of acts mentioned above shall be considered grave breaches to the Conventions. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing or ordering to be committed any of the grave breaches mentioned above.

Each High Contracting Party shall be under obligation to search for persons alleged to have committed or to have ordered to be committed such grave breaches and shall bring such persons regardless of their nationality before its own courts.

It may, however, turn such individuals over for trial to another High Contracting Party provided such High Contracting Party has made out a prima facie case.

Collection of Casualties

At all times and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick at sea and in the field and to protect them against pillage and ill-treatment, to insure their adequate care, and to search for the dead, and prevent their being despoiled.

The Parties to the conflict shall record as soon as possible any particulars which may assist in the identification of the above. These records should if possible include—

- (1) Designation of the power on which he depends.
- (2) Army, regimental, personal, or serial number.
- (3) Surname.
- (4) First name or names.
- (5) Date of birth.
- (6) Any other particulars shown on his identity card or disc.
- (7) Date and place of capture or death.
- (8) Particulars concerning wounds or illness, or cause of death.

As soon as possible, the above-mentioned information shall be forwarded to the Prisoner of War Information Bureau which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoner of War Agency.

Parties to the conflict shall prepare and forward to each other through the Prisoner of War Information Bureau certificates of death or duly authenticated lists of the dead. They shall also send through the Bureau in sealed packets to the next of kin all articles of intrinsic or sentimental value—last wills, important documents, one-half of the double identity disc, together with unidentified articles possessed by the dead.

Parties to the conflict shall insure that burials at sea and in the field, carried out individually as far as circumstances permit, are preceded by a careful examination, if possible by a medical examination, of the body with a view to confirming death, establishing identity, and enabling a report to be made. Where a double identity disc is used, one-half of the disc should remain on the body.

Bodies of the dead at sea which are brought ashore and the dead in the field shall be honorably interred and, if possible, according to the rites of the religion to which they belonged. Their graves will be respected, grouped, if possible, according to their nationality, and properly maintained and marked so that they may always be found. For this purpose, the Parties to the conflict shall organize at the commencement of hostilities an official Graves Registration Service to allow subsequent exhumations and to insure the identification of bodies, whatever the site of the graves, and the possible transportation to the home country.

As soon as circumstances permit, and at latest at the end of hostilities, these Services shall exchange, through the Prisoner of War Information Bureau, lists showing the exact location and markings of the graves, together with particulars of the dead interred therein.

Indigenous Aid

The military authorities may appeal to the charity of the inhabitants voluntarily to collect and care for, under their direction, the wounded and sick, granting to persons who have responded to this appeal the necessary protection and facilities. Should the adverse Party take or retake control of the area, he shall likewise grant these persons the same protection and the same facilities.

The military authorities shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously, to collect and care for wounded or sick of whatever nationality. No one may ever be molested or convicted for having nursed the wounded or sick.

The above does not in any manner relieve the occupying power of its obligation to give both physical and moral care to the wounded and sick.

Protected Establishments on Land

Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict. Should they fall into the hands of the adverse Party, their personnel shall be free to pursue their duties, as long as the capturing power has not itself

ensured the necessary care of the sick and wounded found in such establishments and units.

The above establishments will, so far as is possible, be situated in such a manner that attacks against military objectives cannot imperil their safety. These establishments will not be bombarded or attacked from the sea or air.

The following conditions shall not be considered as depriving a medical establishment of its guaranteed protection:

- (1) That the personnel of the unit are armed, and that they use the arms in their own defense, or in that of the wounded or sick in their charge.
- (2) That in the absence of armed orderlies, the unit is protected by a picket or by sentries or by an escort.
- (3) That small arms and ammunition taken from the sick and wounded and not yet handed to the proper authorities are found in the establishment.
- (4) That personnel and material of the veterinary service are found in the establishment, without forming an integral part thereof.
- (5) That the humanitarian activities extend to the care of civilian wounded or sick.

The material of mobile medical units and land transports shall be reserved for the care of wounded and sick and shall not be intentionally destroyed. The stores of fixed medical establishments remain subject to the laws of war, but may not be diverted from their purpose as long as they are required for the care of wounded and sick.

Fixed medical establishments which fall into the hands of the enemy shall remain subject to the laws of war, but may not be diverted from their purpose as long as they are required for the care of wounded and sick.

Protected Seacraft

Generally speaking, there are three principal categories of seacraft entitled to protection. These are—

- (1) Military hospital ships, that is to say, ships built or equipped by the Powers specially and solely with a view to assisting the wounded, sick, and shipwrecked, to treating them, and to transporting them, may in no circumstances be attacked or captured, but shall at all times be respected and protected, on condition that the Parties to the conflict have been notified of their names and description, ten days before these ships are so employed.

- (2) Hospital ships utilized by National Red Cross Societies, by officially recognized relief societies, or by private persons shall be exempt from capture if the Party to the conflict on which they depend has given them an official commission and that the notification mentioned above has been complied with. In addition, these vessels must be provided with certificates from the responsible authorities, stating that the vessels have been under their control while fitting out and on departure.
- (3) Hospital ships utilized by National Red Cross Societies, by officially recognized relief societies, or by private persons of neutral countries shall be exempt from capture on condition that they have placed themselves under control of one of the Parties to the conflict, with previous consent of their own governments and with the authorization of the Party to the conflict concerned, insofar as the provisions of the notification mentioned above have been met.

The Parties to the conflict shall have the right to control and search the categories of vessels mentioned above and can detain them for a period of not exceeding 7 days from the time of interception if the gravity of the circumstances so require.

The vessels mentioned above shall afford relief and assistance to the wounded, sick, and shipwrecked without distinction of nationality.

Merchant vessels which have been transformed into hospital ships cannot be put to any other use throughout the duration of hostilities.

Any hospital ship in a port which falls into the hands of the enemy shall be authorized to leave the port.

Should fighting occur on board any warship, the sick-bays shall be respected and spared as far as possible. Sick-bays and their equipment shall remain subject to the laws of warfare, but may not be diverted from their purpose so long as they are required for wounded and sick. The commander into whose power they have fallen may, after insuring the proper care of the wounded and sick who are accommodated therein, apply them to other purposes in case of urgent military necessity.

To insure compliance with all of the above, Parties to the conflict, may put on board their ships neutral observers who shall verify the strict observation of the above provisions.

The protection to which hospital ships and sick-bays are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming in all appropriate cases a reasonable time limit, and after such warning has remained unheeded.

In particular, hospital ships may not possess or use a secret code for their wireless or other means of communication.

The following conditions shall not be considered as depriving hospital ships or sick-bays of vessels of the protection due to them :

- (1) The fact that crews of ships or sick-bays are armed for the maintenance of order, for their own defense, or that of the sick and wounded.
- (2) The presence on board of apparatus exclusively intended to facilitate navigation or communication.
- (3) The discovery on board of portable arms and ammunition taken from the wounded, sick, and shipwrecked and not yet handed to the proper service.
- (4) The fact that the humanitarian services extend to wounded, sick, or shipwrecked civilians.
- (5) The transport of equipment and of personnel intended exclusively for medical duties over and above the normal requirements.

Transports

Medical transports on land are subject to the laws of war, on condition that the Party to the conflict who captures them shall in all cases ensure the care of the wounded and sick they contain.

Medical transports at sea shall be authorized to transport equipment exclusively intended for the treatment of wounded and sick members of the armed forces provided that particulars regarding their voyage have been notified to the Adverse Power and approved. The Adverse Power shall preserve the right to board these transports, but they may not capture them or the equipment carried.

Medical aircraft exclusively employed for the removal of wounded, sick, and shipwrecked and for the transport of medical personnel and equipment may not be the object of attack, but shall be respected by the Parties to the conflict, while flying at heights, at times, and on routes specifically agreed upon between the Parties to the conflict.

Unless otherwise agreed upon, flights over enemy or enemy occupied territory are prohibited.

Medical aircraft shall obey every summons to alight on land or water. In the event of having thus to alight, the aircraft with its occupants may continue its flight.

In the event of alighting involuntarily on land or water in enemy territory the wounded, sick, shipwrecked, as well as the crew of the aircraft, shall be prisoners of war (Art. 39).

Medical and Spiritual Personnel

Medical personnel exclusively engaged in the search for or the collection, transport or treatment of the sick and wounded, or in the prevention of disease, and the staff members exclusively engaged in the administration of medical units and establishments, as well as chaplains attached to the armed forces, shall be respected and protected in all circumstances.

The Staff of National Red Cross Societies and that of other Voluntary Aid Societies duly recognized and authorized by their governments, who may be employed on the same duties as medical or chaplain personnel are afforded the same protection as such personnel provided that the staff of such societies are subject to military laws and regulations.

Each High Contracting Party shall notify to the other, either in time of peace, or at the time of commencement of hostilities or during hostilities, but in any case before actually employing them, the names of the societies which it has authorized, under its responsibility, to render assistance to the regular medical service of its armed forces.

Personnel mentioned above who fall into the hands of the Adverse Party, shall be retained only insofar as the state of health, the spiritual needs, and the number of prisoners of war require.

Personnel thus retained shall not be deemed prisoners of war, but they shall at least benefit by all the provisions of the Geneva Conventions relative to the treatment of prisoners of war. Within the framework of the military laws and regulations of the Detaining Power and under the authority of its competent service, they shall continue to carry out, in accordance with their professional ethics, their medical and spiritual duties on behalf of prisoners of war, preferably those of the Armed Forces to which they, themselves belong. They shall further enjoy the following facilities for carrying out their medical or spiritual duties:

- (1) They shall be authorized to visit periodically the prisoners of war in labor units or hospitals outside the camp. The Detaining Power shall put at their disposal the means of transportation required.
- (2) In each camp the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel. For this purpose, from the outbreak of hostilities, the Parties to the conflict shall agree regarding the corresponding seniority of the ranks of their medical personnel, including those of the societies mentioned above. In

all questions arising out of their duties, this medical officer, and the chaplains, shall have direct access to the military and medical authorities of the camp who shall grant them the facilities they may require for correspondence relating to these questions.

- (3) Although retained personnel in a camp shall be subject to its internal discipline, they shall not, however, be required to perform any work outside their medical or religious duties.

Personnel mentioned above whose retention is not indispensable shall be returned to the Party to the conflict to whom they belong, as soon as a road is open for their return and military requirements permit. Pending their return they shall not be deemed prisoners of war, nevertheless they shall at least benefit by all the provisions of the Geneva Convention relative to the treatment of prisoners of war. They shall continue to fulfill their duties under the orders of the Adverse Party and shall preferably be engaged in the care of the wounded and sick of the Party to the conflict to which they themselves belong. On their departure they shall take with them the effects, personal belongings, valuables, and instruments belonging to them.

The selection of personnel for return under the above provisions shall be made irrespective of any consideration of race, religion, or political opinion, but preferably according to the chronological order of their capture and their state of health.

As from the outbreak of hostilities, Parties to the conflict may determine by special agreement the percentage of personnel to be retained, in proportion to the number of prisoners, and the distribution of such personnel in prisoner of war camps.

Members of the armed forces specially trained for employment, should the need arise, as hospital orderlies, nurses, or auxiliary stretcher-bearers, in the search for or the collection, transport or treatment of the wounded and sick shall likewise be respected and protected if they are carrying out these duties at the time when they come into contact with the enemy or fall into his hands. In addition, these personnel shall be employed on their medical duties insofar as the need arises and they will be classified as prisoners of war.

A recognized Society of a neutral country can only lend the assistance of its medical personnel and units to a Party to the conflict with the previous consent of its own government and the authorization of the Party to the conflict concerned. Such personnel, when utilized, shall be placed under the control of that Party to the conflict.

The neutral government shall notify this consent to the adversary of the State which accepts such assistance. The Party which accepts such assistance is bound to notify the Adverse Party thereof

before making any use of it. These persons who fall into the hands of the Adverse Party may not be detained.

Unless otherwise agreed, they shall have permission to return to their country, or if this is not possible, to the territory of the Party to the conflict in whose service they were employed, as soon as a route for their return is open and military considerations permit. Pending their release, they shall continue their work under the direction of the Adverse Party; they shall preferably be engaged in the care of the wounded and sick of the Party to the conflict in whose service they were when captured. The Parties to the conflict shall secure to this personnel, while in their power, the same food, lodging, allowances, and pay as are granted to the corresponding personnel of their armed forces. The food shall in any case be sufficient as regards quantity, quality, and variety to keep them in a normal state of health.

The Distinctive Emblem

As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colors, is retained as the emblem and distinctive sign of the Medical Service of armed forces. In the case of countries which already use as an emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, those emblems are also recognized by the terms of the present Convention.

Personnel exclusively engaged in medical duties, spiritual care, members of national aid societies, and members of aid societies of neutral countries shall wear, affixed to the left arm, a water-resistant armlet bearing the distinctive emblem, issued and stamped by the military authority. Such personnel, in addition to wearing the identification discs shall also carry a special identity card bearing the distinctive emblem. This card will be water-resistant and of such size that it can be carried in the pocket. It shall be worded in the national language, shall mention at least the surname and first name, the date of birth, the rank, the service number, and shall state in which capacity he is entitled to the protection of the present convention. The card shall bear the photograph, signature or fingerprints, or both, and shall be embossed with the stamp of the military authority. The identity card shall be uniform throughout the same armed forces and as far as possible, of a similar type in all the armed forces of the High Contracting Parties. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country. In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armlet.

Auxiliary medical personnel engaged temporarily in medical duties shall wear, while engaged in such duties, a white armlet bearing in its center the distinctive sign in miniature; the armlet shall be issued and stamped by the military authority. Military identity documents to be carried by this type of personnel shall specify what special training they have received, the temporary character of the duties in which they are engaged, and their authority for wearing the armlet.

With the exceptions listed below, the distinctive insignia shall not be employed either in time of peace or war except to indicate or to protect the medical units, personnel, and material protected by the Convention or other Conventions dealing with similar matters. The exceptions to this rule are—

- (1) National Red Cross Societies may in time of peace make use of the name and emblem of the Red Cross for their other activities which are in conformity with the principles laid down by the International Red Cross Conferences. When those activities are carried out in time of war, the conditions for the use of the emblem shall be such that it cannot be considered as conferring the protection of the Convention; the emblem shall be comparatively small in size and may not be placed on armlets or on the roofs of buildings.
- (2) The International Red Cross organizations shall be permitted to make use, at all times, of the emblem of the red cross on a white ground.
- (3) The emblem may be employed in time of peace to identify vehicles used as ambulances and to mark the positions of aid stations exclusively assigned to the purpose of giving free treatment to the wounded or sick.

The distinctive flag of the Convention shall be hoisted only over such medical units and establishments as are entitled to be respected under the Convention, and only with consent of military authorities. In mobile units, as in fixed establishments, it may be accompanied by the National flag of the Party to the conflict to which the unit or establishment belongs; although medical units which have fallen into the hands of the enemy shall not fly any flag other than that of the Convention.

Parties to the conflict shall take the necessary steps, so far as military considerations permit, to make the distinctive emblems indicating medical units and establishments clearly visible to the enemy land, air, and naval forces, in order to obviate the possibility of any hostile action.

Military hospital ships and hospital ships belonging to societies and private individuals shall be distinctively marked as follows:

- (1) All exterior surfaces shall be white.

- (2) One or more dark red crosses, as large as possible, shall be painted and displayed on each side of the hull and on the horizontal surfaces, so placed as to afford the greatest possible visibility from the sea and from the air.

All hospital ships shall make themselves known by hoisting this National flag and further, if they belong to a neutral state, the flag of the Party whose direction they have accepted. A white flag with a red cross shall be flown at the mainmast as high as is possible.

Lifeboats of hospital ships, coastal lifeboats, and all small craft used by the medical service shall be painted white with dark red crosses prominently displayed and shall, in general, comply with the identification system prescribed above for hospital ships.

The above-mentioned ships and craft which may wish to insure by night and in times of reduced visibility the protection to which they are entitled must take the necessary measures to render their painting and distinctive emblems sufficiently apparent.

Hospital ships, which are provisionally detained by the enemy, must haul down the flag of the Party to the conflict in whose service they are or whose direction they have accepted.

Execution of the Convention

Each Party to the conflict, acting through its Commander In Chief, shall insure the detailed execution of the preceding articles and provide for unforeseen cases, in conformity with the general principles of the present Convention.

Section IV. LECTURE NO. 3

THE GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR

Introduction

The treatment of civilians in time of war is the subject of the fourth Convention formulated at Geneva on August 12, 1949. This was not the first protection of civilians provided for by international agreement. The Hague Regulations had provided for the government of enemy territory during military occupation, for protection of the civilians, for the protection of property, and for the treatment of civilian persons who took action against the occupying forces.

Definition

The Geneva Convention Relative to the Protection of Civilian Persons in Time of War is an agreement entered into by 61 governments in which each undertakes to enforce an agreed policy concerning the treatment of civilians. This Convention is concerned with more than the treatment of civilians in countries occupied by the Armed Forces of the signatory powers. The Convention applies in cases of declared war or other armed conflict, cases of partial or total occupation of the territory of a High Contracting Party, and in cases of armed conflict not of an international character, to persons who find themselves, in case of such conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. The representative of the United States signed the agreement with one reservation having to do with offenses for which the death penalty may be imposed. As previously stated, this Convention has not been ratified by the Senate of the United States, however, it is now in the process of being ratified by the member nations' parliaments and rulers. Let us consider the possibilities of this agreement. This Convention furnishes a guide which is in accord with dignity, humanity, and justice. Its observance by the world powers will reduce the hardships of all armed conflict.

General Provisions

(Arts. 1-12).

The Convention applies to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them; to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance; and to cases of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties.

Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a cobelligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are. Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed

Forces in the Field of August 12, 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea of August 12, 1949 or by the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, shall not be considered as protected persons within the meaning of the present convention.

Protection of Civilians Against Consequence of War (Arts. 13-46)

Article 13 specifically provides that the provisions concerning protection against certain consequences of war shall apply to the whole population of a country without adverse distinction based upon race, nationality, religion, or political opinion. It should be noted that the provisions of Part II apply only to the provision of creature comforts such as food, clothing, and medical supplies, to the protection of installations such as hospitals, and to the normally expected humane considerations such as providing family news and preventing the dispersal of families. Hospital zones, safety zones, and localities may be established by a party to the conflict in order to protect the sick, wounded, aged, children under fifteen, expectant mothers, and mothers of children under seven. These zones are expressly made the subject of mutual agreement between the High Contracting Parties. The Contracting Parties shall endeavor to conclude local agreements for the removal of such persons; protect the staffs of installations caring for such people; avoid action against land, sea or air transport marked to show that it carries such people, and to allow the movement of medical supplies, food, and clothing to such people even though the movement must be made across its own territory into the territory of the enemy. One exception to this is that, if one Party to a conflict abuses this protection by using it to cover hostile actions, the protection of such installations and such persons may be disregarded. Another exception is to the movement of medical supplies, food, and clothing when such movement would give a definite advantage to the enemy by releasing an equivalent amount of such supplies for its fighting forces.

Your attention is directed to the policy that the wounded, sick, infirm, expectant mothers, and the staffs of institutions caring for them are to be particularly protected. Provision is made that staffs of hospitals and other institutions, who treat and care for wounded and sick civilians, the infirm and the pregnant, shall be made recognizable by accredited armlets worn, while carrying out their duties, on the left arm, bearing a red cross or a red crescent or the red lion and sun on a white ground, representing the relief agency in the country

concerned. The members of the staff shall also carry identification cards certifying their status, bearing their photograph and the stamp of the responsible authority.

Protected Persons, Aliens, and Occupied Territories

(Arts. 27-78)

STATUS AND TREATMENT OF PROTECTED PERSONS

Article 27 of the Convention provides that without adverse distinction based upon race, religion, or political opinion and with due consideration to the health, age, and sex, protected persons are entitled to respect for their persons, honor, family rights, religious convictions and practices, and their manners and customs. They shall at all times be humanely treated and shall be protected against all actions of violence or threats thereof and against insults and public curiosity. The Occupying Power may, however, take such control and security measures as are necessary as a result of the war.

The following are some of the provisions afforded to protected persons:

- (1) Facilities for making application to Protecting Powers, International Red Cross or equivalent societies, and other organizations whose objectives are to give spiritual aid or material relief, must be made available to them.
- (2) Physical or moral coercion may not be used against protected persons, particularly for the purpose of obtaining information from them.
- (3) Collective penalties or measures of intimidation or terrorism may not be applied.
- (4) Prohibits murder, torture, corporal punishment, mutilation, and medical or scientific experiments not necessitated by the medical treatment of a protected person.
- (5) It is forbidden to pillage and it is forbidden to take reprisals.
- (6) It is forbidden to take hostages.

ALIENS

Section 2 of part III provides for the treatment of aliens in the territory of a Party to the conflict. In general, they are given protection in their right to leave the country, an opportunity to earn a living or to be provided one, to be employed on the same conditions as nationals of the Party to the conflict, and to receive generally humane treatment. In view of the fact that the military is not likely to apply these particular articles concerning aliens, no further consideration of it is given to this section.

Articles 38, 39, 40, 41, 42, and 43 provide that an alien who is not repatriated shall be allowed to live, generally speaking, according

to his own desires; shall be afforded the right to an equal opportunity to find paid employment, subject to security considerations and the provisions of Article 40 as to forced labor, and that no more serious restrictions may be placed upon him than internment or the requirement that he live in an assigned place. Particularly, aliens may not be deprived of individual or collective relief sent to them. They must be allowed to receive the same medical treatment and hospital treatment as nationals of the country in which they live. They must be allowed freedom of religion. Finally, the country in which they live must treat them considerately making provisions for appeal from any adverse decisions against them.

OCCUPIED TERRITORIES

The Convention prohibits individual or mass forcible transfers within a country as well as deportations of protected persons from occupied territories to the territories of the Occupying Power or of any other country. The exception to this is permission to evacuate a community for the security of its population or if imperative military reasons so demand. The type of transfer or deportation such as the German movement of Jews from Germany to Western Poland and the movement of labor from occupied France into Germany during World War II is prohibited. The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand. Also the Occupying Power is not permitted under the Convention to move its own population into occupied territory.

Article 51 of the Convention requires the particular attention of the commanders and staff officers of military units. It prohibits forced enlistments into the army or auxiliary forces of any protected person and prohibits pressure or propaganda aimed at securing voluntary enlistments. Protected persons may not be compelled to work unless they are over 18 years of age, and then only on projects which are necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation, or health of the occupied country. Every such person shall, so far as possible, be kept in his usual place of employment. They must be paid a fair wage and the work required of them must be proportionate to their physical and intellectual capacity. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training, and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to above.

And note this particular requirement: "In no case shall requisition of labor lead to a mobilization of workers in an organization of a military or semimilitary character."

Article 64 of the Convention provides that the penal laws of the occupied territories will remain in force except that any may be repealed or suspended by the Occupying Power if they constitute a security threat or an obstacle to application of the Geneva Convention. Subject to this and to the necessity for ensuring the effective administration of justice, the courts of the occupied territory shall continue to function and apply the penal laws. The Occupying Power, however, may promulgate and enforce additional laws necessary to protect itself.

Article 65 provides that penal provisions enacted by the Occupying Power must be published and brought to the knowledge of the inhabitants in their own language, before they can be enforced. The courts which try violators of penal laws of the Occupying Power must be nonpolitical military courts sitting in the occupied territory. An accused person must be permitted to defend himself, must be permitted to appeal according to the laws applied by the court, must be permitted counsel of his own choice, and failing a choice, the Protecting Power may provide him with counsel, and in no case may be put to death until consideration has been given to any application for pardon or reprieve which the accused may desire to make. In no case may a death sentence be carried out until six months after the date on which the Protecting Power received notification that a death sentence had been confirmed or that request for pardon or reprieve had been denied. The six months period of suspension of the death sentence may be reduced in individual cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences. The effect of this is that one may not have a general military government court convict a man, approve a sentence of death and have him executed immediately.

Regulations for the Treatment of Internees; General (Arts. 79-82)

Our primary consideration up to this point of this lecture has been the protection of civilian persons at our mercy during an occupation. But we have another problem to consider in an occupied territory and even at home. We are somewhat in peril of violence or otherwise

harmful actions by the nationals of the occupied territory. What is our protection against such people?

Historically, if the nationals of an occupied country performed any acts of violence against the occupier, it was permissible to take hostages or to impose reprisals.

Paragraph 359, FM 27-10, The Rules of Land Warfare, 1 October 1940, contains this statement concerning hostages: "Hostages have been taken in war for the following purposes: To insure proper treatment of wounded and sick when left behind in hostile localities; to protect the lives of prisoners who have fallen into hands of irregular troops or whose lives have been threatened; to protect lines of communication by placing them on engines of trains in occupied territory; and to insure compliance with requisitions, contributions, etc. When a hostage is accepted he is treated as a prisoner of war." Hostages were normally chosen from among influential families, wealthy families, or political leaders among the population thereby causing those influential persons to control the remainder of the population. In that way they protected the occupying forces in order to protect their own people.

Reprisals, paragraph 358, FM 27-10, 1 October 1940, states the following concerning reprisals:

"a. DEFINITION. Reprisals are acts of retaliation resorted to by one belligerent against the enemy individuals or property for illegal acts of warfare committed by the other belligerent, for the purpose of enforcing future compliance with the recognized rules of civilized warfare."

If a specific individual can be identified as one who committed violence against the occupying troops or their installations or property, he may be tried before a court and such sentence as is prescribed may be executed. However, the death penalty may not be pronounced against a protected person who was under eighteen years of age at the time of the offense.

Particular attention is invited to one consideration concerning individual offenses. After an individual offense is committed, for example, the murder of a soldier, which is obviously the act of an individual and not the act of a group, it must be treated as an individual crime. Mass punishment may not be ordered against a group of people who fail to produce the individual. The most severe measures of control which can be taken, if recurrence is anticipated, is to subject the population in the area in which the crime occurred to assigned residence or internment. This may be done by either of two methods; the population may be moved to an internment area other than their normal residences or may be simply restricted so closely by travel regulations and curfews that the future commission of such

a crime is made extremely difficult. One may not legally take hostages, enforce mass penalties, other than internment or assigned residence, nor execute reprisals against a mass population, even when individuals commit crimes against the Armed Forces. A death penalty may be imposed and executed only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offenses which have caused the death of one or more persons, provided that such offenses were punishable by death under the law of the occupied territory in force before the occupation began (the United States entered a reservation to the effect that it reserves the right to impose the death penalty for these offenses regardless of whether they are so punishable under the law of the occupied country at the time the occupation begins).

Articles 79 through 141 impose upon each government which interns civilians specific obligations to provide the internees with all of the supplies, services and facilities to insure desirable conditions of life other than the fact that their movements and activities are restricted to the extent which security requires.

What are these specific obligations which the government must meet if it should decide to intern civilians during a war?

Article 80 prescribes that the internees remain civilians with all the rights compatible with their being interned. Interned persons must be maintained and supplied at no expense to themselves. If possible, people of like nationality, language, and customs should be interned together. Except where separation of a temporary nature is necessitated for reasons of employment or health or the enforcement of penal or disciplinary sanctions, members of the same family shall be interned in the same place of internment, and, wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees.

Places of Internment

(Arts. 83-88)

Eleven major conditions govern the selection of and establishment of an internment camp.

- (1) Internment areas must not be particularly exposed to the dangers of war.
- (2) The Detaining Power must notify the enemy Powers, through the intermediary of the Protecting Powers, of the location of internment camps.
- (3) Whenever military considerations permit, internment camps must be clearly marked with the letters "I. C." However,

the Powers concerned may agree upon any other system of marking.

- (4) Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.
- (5) Buildings shall be conducive to good health, in other words all necessary and possible measures must be taken to provide buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection from the rigours of the climate and the effects of the war.
- (6) Heat, light, and sanitation for the people interned must be provided.
- (7) Sanitary conveniences including baths, water, soap, and facilities for washing and cleaning must be provided.
- (8) Separate sleeping quarters and sanitary facilities must be furnished for women internees who are not members of families.
- (9) Premises for holding religious services must be made available.
- (10) Canteens providing necessities for sale must be provided except where other suitable facilities are available, the profits therefrom going into a welfare fund to be used for the benefit of the internees.
- (11) Protective measures against fire and air raids must be provided.

Food and Clothing

(Arts. 89 and 90)

Sufficient suitable food to maintain health, sufficient drinking water, and special foods for expectant and nursing mothers must be provided. Permission to use tobacco must be granted to inmates. Should any internees not have sufficient clothing, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power. The clothing supplied internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule.

Hygiene and Medical Attention

(Arts. 91 and 92)

Specific provisions are included in Articles 91 and 92 providing that internees must be provided with the necessary medical facilities and attention and must be permitted to use them. Article 95 provides that the Detaining Power may require doctors, dentists, and other medical

personnel among the internees to administer to the other internees. Internees must be medically inspected at least once each month, particularly to detect contagious diseases especially tuberculosis, malaria, and venereal disease. The weight must be checked during this monthly inspection and at least once a year a radioscopic examination must be made.

Religious, Intellectual, and Physical Activities

(Arts. 93-96)

Internees must be allowed to practice their own religion subject to complying with the disciplinary routine prescribed by the camp commander. Ministers must be permitted to minister to those of their own faith and consideration must be given to distributing the interned ministers as equally as possible throughout the camps where members of their faith are interned. If no minister of any particular faith is available the minister of a similar faith or a layman may be used to carry out his duties. Schools must be provided for the education of those of school age and opportunity and encouragement given to intellectual, educational, and recreational pursuits, sports and games among the internees.

With the exception of work for the maintenance of the camp and the treatment of the internees, internees may not be required to accept employment. Wages for work done shall be determined on an equitable basis by special agreements between the internees, the Detaining Power, and, if the case arises, employers other than the Detaining Power, due regard being paid to the obligation of the Detaining Power to provide for free maintenance of internees and for the medical attention which their state of health may require.

If labor detachments are formed, they must remain a part of and dependent upon the place of internment. The delegates of the Protecting Power or other organizations impartially representing the welfare of the internees must be notified concerning any such labor detachments.

Personal Property and Financial Responsibility

(Arts. 97 and 98)

On release or repatriation, internees shall be given all articles, moneys, or other valuables taken from them during internment except any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt.

Regular financial allowances must be made available to internees in the form of money, credit or purchase coupons to enable them to

purchase the usually needed items of daily life such as tobacco, toilet items, etc. Internees may receive from their own government or a Protecting Power allowances according to category of person. The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances and wages earned and the remittances received, together with such sums taken from him as may be available under the legislation in force in the territory in which he is interned.

Administration and Discipline

(Arts. 99-104)

Every place of internship shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. He must have in his possession a copy of this Convention in his own language and in the language of those whom he is to govern. His staff must be instructed in the provisions of the Convention and of the administrative measures which they will be enforcing. The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited. In particular, prolonged standing and roll-calls, punishment drill, military drill and maneuvers, or the reduction of food rations, are prohibited.

Relations With the Exterior

(Arts. 105-116)

The internees must be permitted to carry on certain relations with the exterior. Correspondence may be limited if necessary but the internee must be allowed to receive by mail or other means such relief parcels as may be sent to him, subject to inspection by camp officials for security. One specific provision must be carefully observed. As soon as possible and in no case later than one week after the internees enter the camp, each must be permitted to direct one card to his family informing them of his detention, address, and state of health. These cards must be forwarded promptly.

Penal and Disciplinary Sanctions

(Arts. 117-126)

The disciplinary controls which may be applied by the commander of an internment place are of two types. Penal sanctions are those

which must be prescribed by a court. In general they must not constitute cruel or inhuman punishment.

Disciplinary sanctions are those of the type which are administered by a company commander to a soldier under the 104th Article of War. They may include a fine of not to exceed 50 percent of the wages of an internee for 30 days, discontinuance of privileges over and above those required by the Convention, fatigue duties not to exceed 2 hours daily, and confinement. Disciplinary penalties must not be brutal, inhumane or dangerous to health and in no case may confinement of more than 30 days at one time be enforced. Disciplinary punishment may be imposed only by the commander of the camp or a designated responsible officer and must be given after due investigation and consideration, not just by caprice.

The only sanctions permitted for attempts to escape or for successful escape from the place of internment are disciplinary punishments. The usual personal comforts allowed to a prisoner must be allowed to those in disciplinary punishments, including confinements.

Transfer of Internees

(Arts. 127-128)

Transfers of internees must be effected humanely under conditions at least equal to those obtaining for the forces of the Detaining Power in their changes of station. In particular; food, clothing, shelter, medical attention, and safety precautions must be provided during transfer. Transfers are not to be made if staying in place would be the less dangerous course.

When internees are transferred they must be again permitted to notify relatives of their address and condition of health.

Deaths

(Arts. 129-131)

In the event of the death of an internee his will shall be transmitted without delay to a person whom he has designated. Deaths of internees shall be certified in every case by a doctor, and a death certificate shall be made out, showing the cause of death and the conditions under which it occurred. An official record of the death, duly registered, shall be drawn up in accordance with the procedures relating thereto in force in the territory where the place of internment is situated, and a duly certified copy of such record shall be transmitted without delay to the Protecting Power as well as to the Central Information Agency. The detaining authorities shall ensure that internees who died while interned are honorably buried, if possible, according to the rites of the religion to which they belonged, and that

their graves are respected, properly maintained, and marked in such a way that they can always be recognized as soon as circumstances permit, and not later than the close of hostilities the Detaining Power shall forward lists of graves of deceased internees to the Powers on whom the deceased internees depended, through the Central Information Agency.

If a death is caused by another person, as well as any death the cause of which is unknown, it shall be immediately followed by an official inquiry by the Detaining Power and a communication on this subject sent immediately to the Protecting Power.

Release, Repatriation, and Accommodation in Neutral Countries

(Arts. 132-135)

In general the internment of civilians will be continued no longer than necessary. All of them will be released as soon as possible after the close of hostilities.

Information Bureaux and Central Agency

(Arts. 136-141)

When a war breaks out, each nation which is a Party to the conflict must establish an official information bureau receiving and transmitting information concerning protected persons within its power. This bureau must be given information concerning any protected person who is kept in custody for more than two weeks or is subjected to assigned residence or interned. Thereafter all changes which occur to the person such as transfers, releases, repatriations, escapes, hospitalization, births and deaths must be reported and the information kept in the bureau. This information is transmitted to the Powers of whom the internees are nationals through the intermediary of the Protecting Powers and the Central Information Agency.

In a neutral country a Central Information Agency will collect this information from all of the national information bureaux. Mail between these various information bureaux is postage free.

General Provisions

(Arts. 142-149)

Representatives or delegates of the Protecting Powers shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work. They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter.

Such visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure. Their duration and frequency shall not be restricted.

Such representatives and delegates shall have full liberty to select the places they wish to visit. The Detaining or Occupying Power, the Protecting Power, and, when occasion arises, the Power of Origin of the persons to be visited may agree that compatriots of the internees shall be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall also enjoy the above prerogatives. The appointment of such delegates shall be submitted to the approval of the Power governing the territories where they will carry out their duties.

All authorities who, in time of war, assume responsibilities in respect of protected persons must possess the text of the Convention and be specially instructed as to its provisions.

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Conventions as widely as possible in their respective countries, and, in particular, to include the study thereof in their programs of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population.

